

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 882
93RD GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention and Public Safety April 27, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 882 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4352L.05C

AN ACT

To amend chapter 319, RSMo, by adding thereto sixteen new sections relating to blasting and excavation, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 319, RSMo, is amended by adding thereto sixteen new sections, to
2 be known as sections 319.300, 319.303, 319.306, 319.309, 319.312, 319.315, 319.318, 319.321,
3 319.324, 319.327, 319.330, 319.333, 319.336, 319.338, 319.339, and 1, to read as follows:

319.300. Sections 319.300 to 319.339 shall be known as the "Missouri Blasting
2 **Safety Act". The purpose of sections 319.300 to 319.339 shall be to foster the safe use of**
3 **explosives in mining and construction by establishing and enforcing consistent statewide**
4 **industry standards for licensing of blasters and persons using explosives. The provisions**
5 **of sections 319.300 to 319.339 or any rules or regulations promulgated thereunder shall not**
6 **be construed to amend, supersede, or conflict with any requirement of federal law or**
7 **regulation governing the manufacturing, transporting, or storage of explosives.**

319.303. As used in sections 319.300 to 319.339, the following terms shall mean:

2 **(1) "Blaster", a person qualified to be in charge of and responsible for the loading**
3 **and firing of an explosive or explosive material;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 (2) "Blast", detonation of explosives;

5 (3) "Blasting", the use of explosives in mining or construction;

6 (4) "Blast site", the area where explosives are handled during loading of a bore
7 hole, including fifty feet in all directions from the perimeter formed by loaded holes. A
8 minimum of thirty feet may replace the fifty feet requirement if the perimeter of loaded
9 holes is marked and separated from nonblast site areas by a barrier. The fifty feet or
10 thirty feet distance requirements, as applicable, shall apply in all directions along the full
11 depth of the bore hole;

12 (5) "Board", the state blasting safety board created in section 319.324;

13 (6) "Bore hole", a hole made with a drill, auger, or other tool in which explosives
14 are placed in preparation for detonation;

15 (7) "Burden", the distance from an explosive charge to the nearest free or open face
16 at the time of detonation;

17 (8) "Business day", any day of the week except Saturday, Sunday, or a federal or
18 state holiday;

19 (9) "Deck", charge of explosives separated from other charges by stemming;

20 (10) "Delay period", the time delay provided by blasting caps which permits firing
21 of bore holes in sequence;

22 (11) "Detonation", the action of converting the chemicals in an explosive charge to
23 gases at a high pressure by means of a self-propagating shock wave passing through the
24 charge;

25 (12) "Detonator", any device containing initiating or primary explosive that is used
26 for initiating detonation of another explosive material. A detonator may not contain more
27 than ten grams of total explosives by weight, excluding ignition or delay charges. The term
28 includes, but is not limited to, electric blasting caps of instantaneous and delay types,
29 blasting caps for use with safety fuse, detonating cord delay connectors, and non-electric
30 instantaneous and delay blasting caps which use detonating cord, shock tube, or any other
31 replacement for electric leg wires;

32 (13) "Explosives", any chemical compound, mixture, or device, the primary or
33 common purpose of which is to function by explosion, including, but not limited to,
34 dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses,
35 squibs, detonating cord, igniter cord, and igniters; includes explosive materials such as any
36 blasting agent, emulsion explosive, water gel, or detonator. Explosive materials determined
37 to be within the coverage of sections 319.300 to 319.339 shall include all such materials
38 listed in 18 U.S.C. Chapter 40, as issued at least annually by the Department of Justice,
39 Bureau of Alcohol, Tobacco, Firearms and Explosives;

- 40 (14) "Firing", causing explosives to be detonated by the use of a fuse or electric
41 detonator;
- 42 (15) "Fire Protection official", an authorized representative of a municipal fire
43 department, fire protection district, or volunteer fire protection association for the area
44 where blasting occurs;
- 45 (16) "Fugitive from justice", any person who has fled from the jurisdiction of any
46 court of record to avoid prosecution for any crime or to avoid giving testimony in any
47 criminal proceeding. The term shall also include any person who has been convicted of any
48 crime and has fled to avoid case disposition;
- 49 (17) "Initiation system", components of an explosive charge that cause the charge
50 to detonate, such as primers, electric detonators, and detonating charge;
- 51 (18) "Loading", placing of explosives in a hole in preparation for detonation;
- 52 (19) "Local government", a city, county, fire protection district, volunteer fire
53 protection association, or political subdivision of the state;
- 54 (20) "Person", any individual, proprietorship, partnership, firm, corporation,
55 company, joint venture, association, teaching institution, municipality, county, political
56 subdivision, or department, board, commission, institution, or agency of the state of
57 Missouri;
- 58 (21) "Person using explosives", any business, company, or other person that is
59 required to hold authority to receive or use explosives under statutes or regulations
60 administered by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
61 Explosives and who employs blasters as required to be licensed by section 319.306;
- 62 (22) "Regulatory authority", the Missouri division of fire safety, office of the state
63 fire marshal;
- 64 (23) "Scaled distance", the linear distance, in feet, from the blast to a specified
65 location, divided by the square root of the maximum weight of explosives, in pounds, to be
66 detonated in any eight millisecond period;
- 67 (24) "Seismograph", an instrument that measures ground vibration and acoustic
68 effects;
- 69 (25) "Spacing", the distance between adjacent bore holes;
- 70 (26) "Stemming", inert material that is placed above explosives that have been
71 placed in a blast hole in preparation for detonation or vertically between columnar decks
72 of explosives that have been placed in a hole in preparation for detonation;
- 73 (27) "Uncontrolled structure", any dwelling, public building, school, church,
74 commercial building, or institutional building, that is not owned or leased by the person

75 using explosives, or otherwise under the direct contractual responsibility of the person
76 using explosives.

319.306. 1. Any individual who uses explosives in Missouri shall obtain a blaster's
2 license, except those exempted in subsection 18 of this section. A company, business, or
3 other person defined as a "person using explosives" shall not be required to hold a
4 blaster's license, but all blasting on behalf of such company, business, or other person as
5 governed by sections 319.300 to 319.339 shall be performed only by licensed blasters.
6 Applications for a blaster's license or renewal of a blaster's license shall be on a form
7 designated by the Missouri division of fire safety, and shall contain the following:

- 8 (1) The applicant's full name;
- 9 (2) The applicant's home address;
- 10 (3) The applicant's date of birth;
- 11 (4) The applicant's sex;
- 12 (5) The applicant's physical description;
- 13 (6) The applicant's driver's license number;
- 14 (7) The applicant's current place of employment;
- 15 (8) A listing of any other blasting license or certification held by the applicant, to
16 include the name, address, and phone number of the regulatory authority that issued the
17 license or certification;
- 18 (9) Any other information required to fulfill the obligations of sections 319.300 to
19 319.339.

20 2. Any individual who has met the qualifications set forth in subsection 4 of this
21 section may apply for a blaster's license.

22 3. An applicant for a blaster's license shall submit an application fee and two copies
23 of the applicant's photograph with the application submitted to the division of fire safety.
24 The amount of such fee shall be established by rule promulgated by the division of fire
25 safety under rulemaking authority established in section 319.327. The fee established by
26 rule shall be no greater than the cost of administering this section, but shall not exceed one
27 hundred dollars.

28 4. Any applicant for a blaster's license shall meet the following qualifications:

- 29 (1) Is at least twenty-one years of age;
- 30 (2) Has not willfully violated any provisions of sections 319.300 to 319.339;
- 31 (3) Has not knowingly withheld information or has not made any false or fictitious
32 statement intended or likely to deceive in connection with the application;
- 33 (4) Has familiarity and understanding of relevant federal and state laws relating
34 to explosives materials;

- 35 **(5) Has not been convicted in any court of, or plead guilty to, a felony;**
36 **(6) Is not a fugitive from justice;**
37 **(7) Is not an unlawful user of any controlled substance in violation of chapter 195,**
38 **RSMo;**
39 **(8) Except as provided in subsections 11 and 13 of this section, has completed an**
40 **approved blaster's training course that meets the requirements of subdivision (1) of**
41 **subsection 14 of this section and has successfully passed the licensing examination under**
42 **the provisions of subdivisions (1) to (5) of subsection 15 of this section;**
43 **(9) Has accumulated at least one thousand hours of experience directly relating to**
44 **the use of explosives within two years immediately prior to applying for a blaster's license**
45 **and shall provide signed documentation from an employer, supervisor, or other responsible**
46 **party verifying the applicant's experience;**
47 **(10) Has not been adjudicated as mentally defective; and**
48 **(11) Is a citizen of the United States and does not advocate or knowingly belong to**
49 **any organization or group that advocates violent action against any federal, state, or local**
50 **government, or against any person.**
51 **5. Any individual holding a blaster's license under the provisions of this section**
52 **shall promptly notify the division of fire safety if he or she has had any change of material**
53 **fact relating to these qualifications of holding a blaster's license.**
54 **6. If the division of fire safety finds that the requirements for a blaster's license**
55 **have been satisfied, such a license shall be issued to the applicant.**
56 **7. A blaster's license shall expire three years from the date of issuance. To qualify**
57 **for a renewal of a blaster's license, an individual will be required to provide documentation**
58 **of completing eight hours of training in an explosives-related course of instruction that is**
59 **approved by the division of fire safety, half of which shall have been completed within the**
60 **year prior to renewal. The remainder of such training for renewal of the license may be**
61 **acquired at any time during the three-year period that a license is valid. Additional**
62 **training beyond an accumulated eight hours during any three-year period is not valid for**
63 **more than one subsequent renewal of the license.**
64 **8. Each license issued under the provision of this section shall provide**
65 **documentation to the license holder in the form of a letter or letter-sized certificate and a**
66 **card that is approximately two inches by three inches in size. Each shall specify a unique**
67 **license number, the name of the individual, his or her driver's license number, the**
68 **individual's photograph, the blaster's license's effective date and its expiration date, and**
69 **any other record-keeping information needed by the division of fire safety. In addition,**
70 **the card form of the license shall contain a photographic image of the license holder.**

71 **9. Each individual required to have a blaster's license shall provide documentation**
72 **that he or she has a currently valid license to a representative of the division of fire safety**
73 **within two business days of a written or verbal request. No enforcement action shall be**
74 **taken against any individual that cannot comply with such a request so long as the division**
75 **of fire safety's records provide documentation that the individual has a valid blaster's**
76 **license.**

77 **10. (1) A blaster's license issued under the provisions of this section may be**
78 **suspended or revoked by the division of fire safety upon substantial proof that the**
79 **individual holding the license has:**

80 **(a) Knowingly failed to monitor the use of explosives as provided in section 319.309;**

81 **(b) Negligently or habitually exceeded the limits established under section 319.312;**

82 **(c) Knowingly or habitually failed to create a record of blasts as required by section**
83 **319.315;**

84 **(d) Had a change in material fact relating to their qualifications for holding a**
85 **blaster's license as described in subsection 4 of this section;**

86 **(e) Failed to advise the division of fire safety of any change of material fact relating**
87 **to his or her qualifications for holding a blaster's license; or**

88 **(f) Knowingly made a material misrepresentation of any information by any means**
89 **of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of**
90 **obtaining training or otherwise meeting the qualifications of obtaining a license.**

91 **(2) The division of fire safety shall provide any notice of suspension or revocation,**
92 **as provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last**
93 **known address of the holder of the license. The notice may also be verbal, but this does not**
94 **eliminate the requirement for written notice. Upon receipt of a verbal or written notice of**
95 **suspension or revocation from the division of fire safety, the person holding the license**
96 **shall immediately surrender all copies of the license to a representative of the division of**
97 **fire safety and shall immediately cease all blasting activity.**

98 **(3) The person holding the license may appeal any suspension or revocation to the**
99 **state blasting safety board established under section 319.324 within forty-five days of the**
100 **date written notice was received. The division of fire safety shall immediately notify the**
101 **chairman of the board that an appeal has been received and a hearing before the board**
102 **shall be held. The board shall consider and make a decision on any appeal received by the**
103 **division of fire safety within thirty days of the date the appeal is received by the division**
104 **of fire safety. The board shall make a decision on the appeal by majority vote of the board**
105 **and shall immediately notify the licensee of its decision in writing. The written statement**
106 **of the board's decision shall be prepared by the division of fire safety or its designee and**

107 shall be approved by the chairman of the board. The approved statement of the board's
108 decision shall be sent by certified mail to the last known address of the holder of the
109 license.

110 11. Any person whose license has been expired for a period of three years or less
111 shall be required to successfully pass the examination as provided in subdivisions (1) to (5)
112 of subsection 15 of this section and attend the eight hours of training required for renewal
113 of a license as minimum qualifications for submitting an application for re-instatement of
114 the license. Any person whose license has been expired for a period of more than three
115 years shall meet the qualifications set forth in subsection 4 of this section, including
116 completing twenty hours of training and passing the examination, prior to applying for a
117 blaster's license.

118 12. License reciprocity may be granted to applicants that within the last three years
119 have held a valid license or certification from any other source if all of the qualifications
120 for obtaining the license or certification meets or exceeds the provisions of this section.
121 Licenses or certification held prior to the effective date of the rule required by subsection
122 19 of this section shall be deemed to meet requirements for reciprocity, provided that they
123 meet requirements of the rule. It is the duty of the division of fire safety to investigate the
124 qualifications required for obtaining a license or certification that is listed on a completed
125 application on which the applicant is attempting to obtain a license issued by the division
126 of fire safety.

127 13. License reciprocity also may be granted upon the application of a person
128 employed as a blaster on or before December 31, 2000, and who has accumulated one
129 thousand hours of training or education pertaining to blasting and experience working for
130 a specific person using explosives within two years immediately prior to applying for
131 reciprocity. The application shall include a statement of hours of experience in the form
132 of an affidavit signed by the person using explosives who has employed or contracted with
133 the blaster for the preceding two years. Such applicant for reciprocity also shall meet the
134 requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection 4 of this
135 section. Any person granted a license under this subsection shall be limited to blasting
136 performed for the person submitting the affidavit required by this subsection. Such blaster
137 granted reciprocity shall meet the requirements for continuing training required by
138 subsection 7 of this section.

139 14. (1) The division of fire safety or its authorized agent shall offer at least two
140 courses of instruction annually that fulfills the training requirement of qualifying for a
141 blaster's license and renewal of a blaster's license. In addition, any person may apply to
142 the division of fire safety for approval of a course of instruction that meets the training

143 requirement of obtaining a blaster's license or renewal of a blaster's license. The
144 application shall include a description of the qualifications of the instructor, a description
145 of instructional materials to be used in the course, and an outline of the subject matter to
146 be taught, including minimum hours of instruction on each topic. The division of fire
147 safety shall review the application regarding the knowledge and experience of proposed
148 instructors, the total hours of training and the adequacy of proposed training in subject
149 matter with regard to the provisions of sections 319.300 to 319.339. If the division of fire
150 safety determines that training proposed by the applicant is adequate, a letter of approval
151 shall be issued to the applicant. The letter of approval shall be effective for a period of
152 three years. If at any time the division of fire safety determines that an approved training
153 course no longer meets the standards of this section, the letter of approval may be revoked
154 with written notice. The division of fire safety or any person providing a course of
155 instruction may charge an appropriate fee to recover the cost of conducting such
156 instruction.

157 (2) To be approved by the division of fire safety, a blaster's training course shall
158 contain at least twenty hours of instruction to prepare attendees for obtaining a blaster's
159 license the first time, or eight hours of instruction to prepare attendees for obtaining a
160 license renewal.

161 (3) Any person providing training in a course of instruction approved by the
162 division of fire safety shall submit a list of individuals that attended any such course to the
163 division of fire safety within ten working days after completion of the course.

164 (4) The division of fire safety shall maintain a current list of persons who provide
165 approved training and shall make this list available by any reasonable means to
166 professional and trade associations, labor organizations, universities, vocational schools,
167 and others upon request.

168 15. (1) The division of fire safety shall approve a standard examination or
169 examinations for the purpose of qualifying an individual to obtain a blaster's license. Each
170 individual taking the examination shall pay a fee to the division of fire safety, or the
171 division's agent, that is established by regulation. Testing fees shall be no greater than
172 what is required to administer the testing provisions of this section and shall not exceed
173 fifty dollars per test.

174 (2) Except as provided in subsection 11 of this section, no individual shall be
175 allowed to take an examination for purposes of obtaining a blaster's license unless that
176 individual has completed a training course approved by the division of fire safety. The
177 individual must have completed an approved course of instruction as provided in
178 subdivision (1) of subsection 14 of this section no longer than two years prior to taking the

179 examination. The examination may be administered by any person approved to provide
180 a course of instruction, as provided in subdivision (1) of subsection 14 of this section, at the
181 site of instruction, provided that any such examination may, at the discretion of the fire
182 marshal, be conducted under the supervision of the state fire marshal or his or her
183 designee. The division of fire safety may also administer such examinations at other times
184 and locations.

185 (3) Standards for passing the examination shall be set by the division of fire safety
186 by rule.

187 (4) The division of fire safety or its authorized agent shall provide a written
188 statement within thirty days to the individual taking the examination as to whether that
189 individual passed or failed.

190 (5) Any individual failing to pass the examination may retake the examination
191 within six months without having to complete an additional approved course of instruction.
192 If the individual fails the second examination, the person must complete another course of
193 instruction as required in subdivision (1) of subsection 14 of this section before taking the
194 examination again. No limit will be placed on how many times any individual may take the
195 examination, subject to the provisions of this subdivision of this subsection.

196 (6) Individuals having previously taken an approved course, and passed an
197 approved examination, and having taken an approved refresher training course, or that
198 have obtained a blaster's license as provided in subsections 12 and 13 of this section are
199 eligible for renewal of a blaster's license after meeting the requirements of subsection 7 of
200 this section. The fee for renewal of a license shall be the same as the fee specified in
201 subsection 3 of this section.

202 16. No individual shall load or fire explosives or direct, order, or otherwise cause
203 any individual to load or fire explosives in this state unless that individual has a valid
204 blaster's license or is under the direct supervision and responsibility of an individual
205 having a valid blaster's license. An individual without a blaster's license that is loading or
206 firing explosives while under the direct supervision and responsibility of someone having
207 a blaster's license shall not be in violation of sections 319.300 to 319.339.

208 17. Persons found guilty of loading or firing explosives, or directing, ordering, or
209 otherwise causing any individual to load or fire explosives in this state without having a
210 valid blaster's license, or that loads and fires explosives without being under the direct
211 supervision and responsibility of an individual holding a blaster's license as provided in
212 sections 319.300 to 319.339, shall be guilty of a class B misdemeanor for the first offense
213 or a class A misdemeanor for the second offense. Any individual convicted of a class A

misdemeanor under the provisions of sections 319.300 to 319.339 shall be permanently prohibited from obtaining a blaster's license in this state.

18. The requirement for obtaining a blaster's license shall not apply to:

(1) Individuals employed by universities, colleges, or trade schools when the use of explosives is confined to instruction or research;

(2) Individuals using explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

(3) Individuals conducting training or emergency operations of any federal, state, or local government including all departments, agencies, and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) Individuals that are members of the armed forces or any military unit of Missouri or the United States who are using explosives while on official training exercises or who are on active duty;

(5) Individuals using pyrotechnics, commonly known as fireworks, including signaling devices such as flares, fuses, and torpedoes;

(6) Individuals using small arms ammunition and components thereof which are subject to the Gun Control Act of 1968, Title 18, Chapter 44 U.S.C., and regulations promulgated thereunder;

(7) Any individual performing duties in underground mines regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using explosives within an industrial furnace;

(8) Any individual having a valid blaster's license or certificate issued under the provisions of any requirement of the U.S. government in which the requirements for obtaining the license or certificate meet or exceed the requirements of sections 319.300 to 319.339;

(9) Individuals using agricultural fertilizers when used for agricultural or horticultural purposes;

(10) Individuals handling explosives while in the act of transporting them from one location to another;

(11) Individuals assisting or training under the direct supervision of a licensed blaster;

(12) Individuals handling explosives while engaged in the process of explosives manufacturing;

(13) Employees, agents, or contractors of rural electric cooperatives organized or operating under chapter 394, RSMo; and

(14) Individuals discharging historic firearms and cannon or reproductions of historic firearms and cannon.

19. The division of fire safety shall promulgate rules under this section to become effective no later than July 1, 2007. Any individual loading or firing explosives after the effective date of such rule shall obtain a license within one-hundred eighty days of the effective date of such rule. Any experience or training prior to the effective date of such rule that meets the standards established by the rule shall be deemed to comply with this section.

319.309. 1. Any person using explosives in the state of Missouri shall calculate the scaled distance to the nearest uncontrolled structure. If more than one uncontrolled structure is the same approximate distance from the blast site, then the person using explosives may select one representative structure for calculation of scaled distance.

2. For the purposes of this section, the term uncontrolled structure shall not apply to the following:

(1) Buildings in a state of disrepair or neglect which are not being used as a permanent residence;

(2) Noncommercial storage sheds;

(3) Temporary structures;

(4) Any unoccupied mobile recreational vehicle, trailer, or camper;

(5) Agricultural barns, storage sheds, and animal shelters;

(6) Any building on mine property that is owned by the mine operator or contained on property leased by the mine operator.

3. In any instance when the scaled distance value is fifty-five or less, any person using explosives, except as provided in 319.321, shall use at least one seismograph calibrated to the manufacturer's standard for use to record the ground vibration and acoustic levels that occur from the use of such explosives or explosive materials. When measuring ground vibration and acoustic levels, the seismograph shall be placed in the proximity of the nearest uncontrolled structure or, at the option of the person using explosives, closer to the blast site. If more than one uncontrolled structure is the same approximate distance from the blast site, then the person using explosives may select one representative structure for placement of the seismograph.

4. Any person voluntarily using a seismograph calibrated to the manufacturer's standard for use for all blasting is exempt from the requirements of this section.

319.312. 1. (1) Any person using explosives in the state of Missouri in which

2 monitoring with a seismograph is required, as provided in section 319.309, shall comply
3 with ground vibration limits based on the U.S. Bureau of Mines Report of Investigations
4 8507, Appendix B.

5 (2) In lieu of the ground vibration limit established in subdivision (1) of this
6 subsection, the person using explosives may submit a written request to the division of fire
7 safety to use an alternate compliance method. Such written request must be supported by
8 sufficient technical information, which may include but not be limited to, documented
9 approval of such method by other federal, state, or local political subdivisions which
10 regulate the use of explosives. Upon submittal by the person using explosives of a request
11 to use an alternate compliance method, the state blasting safety board shall issue a written
12 determination as to whether the technical information submitted provides sufficient
13 justification for the alternate method to be used as a method of demonstrating compliance
14 with the provisions of this section.

15 2. Any person using explosives in the state of Missouri in which monitoring with
16 a seismograph is required, as provided in section 319.309, shall limit acoustic values from
17 blasting to one hundred thirty-three decibels using a two hertz flat response measuring
18 system based on the Office of Surface Mining regulation 816.67(b)(1)(I).

319.315. 1. Seismograph recordings of the ground vibration and acoustic levels
2 created by the use of explosives, when required by section 319.309, shall be retained for at
3 least three years. Such recordings shall be made available to the division of fire safety
4 within twenty-four hours of a request by any representative of the division of fire safety.
5 Each seismograph recording and the accompanying records shall include the:

- 6 (1) Maximum ground vibration and acoustics levels recorded;
- 7 (2) Specific location of the seismograph equipment, its distance from the detonation
8 of the explosives, the date of the recording, and the time of the recording;
- 9 (3) Name of the individual responsible for operation of the seismograph equipment
10 and performing an analysis of each recording; and
- 11 (4) Type of seismograph instrument, its sensitivity and calibration signal or
12 certification date of the last calibration.

13 2. When seismograph recordings of the use of explosives are required by section
14 319.309, a record of each such use of explosives shall be made and retained for at least
15 three years. The record shall be completed by the end of the work day following the day
16 in which the explosives were detonated. Such records shall be made available to the
17 division of fire safety, upon request, within twenty-four hours of the request. Each record
18 shall include the:

- 19 (1) Name of the person using the explosives;

- 20 (2) Location, date, and time of the detonation;
- 21 (3) Name of the licensed blaster responsible for use of the explosives;
- 22 (4) Type of material blasted;
- 23 (5) Number of bore holes, burden, and spacing;
- 24 (6) Diameter and depth of bore holes;
- 25 (7) Type of explosives used;
- 26 (8) Weight of explosives used per bore hole and total weight of explosives used;
- 27 (9) Maximum weight of explosives detonated within any eight millisecond period;
- 28 (10) Maximum number of bore holes or decks detonated within any eight
- 29 millisecond period;
- 30 (11) Initiation system, including number of circuits and the timer interval, if a
- 31 sequential timer is used;
- 32 (12) Type and length of stemming;
- 33 (13) Type of detonator and delay periods used, in milliseconds;
- 34 (14) Sketch of delay pattern, including decking;
- 35 (15) Distance and scaled distance, if required under the provisions of 319.309, to
- 36 the nearest uncontrolled structure;
- 37 (16) Location of the nearest uncontrolled structure, using the best available
- 38 information.

39 3. It shall be the duty of each licensed blaster and each person using explosives to
40 assure that the requirements of this section are met. Any person using explosives shall
41 provide properly calibrated seismographic equipment at the closest practical proximity to
42 the nearest uncontrolled structure, or at the option of the person using explosives the
43 seismograph equipment may be located nearer to the blast site on an approximate line
44 between the nearest uncontrolled structure and the blast site. Licensed blasters shall
45 create the record required in subsection 2 of this section and provide such record to the
46 person using explosives, who shall be responsible for maintaining records required in this
47 section.

2 319.318. 1. Any person using explosives shall comply with the provisions of this
3 section.

4 2. Provisions of federal law and regulation regarding the manufacturing,
5 transportation, distribution, and storage of explosives shall be enforced by the appropriate
6 federal agency and shall not be subject to enforcement under sections 319.300 through
7 319.339.

8 3. Within sixty days after the effective date of sections 319.300 to 319.339, each
9 person using explosives or intending to use explosives in Missouri shall register with the

9 state fire marshal. Any person not required to register on the effective date, who
10 subsequently uses explosives in Missouri, shall register with the state fire marshal prior to
11 first using explosives in Missouri. The initial registration shall state the name of the
12 person, address, telephone number, facsimile number, e-mail address, and name of the
13 principal individual having responsibility for supervision of the use of explosives. A fee of
14 one hundred dollars shall be submitted with the initial registration.

15 4. Each person using explosives that is required to register under subsection 3 of
16 this section shall by January thirty-first of each year after registering, file an annual report
17 with the state fire marshal for the preceding calendar year.

18 (1) The annual report shall state any material change or addition to the information
19 stated in the report required by subsection 3 of this section.

20 (2) The initial annual report shall only include that portion of the preceding
21 calendar year after the date the person became subject to the requirement to register under
22 subsection 3 of this section.

23 (3) The report shall include:

24 (a) The name and address of the explosives distributors from which explosives were
25 purchased;

26 (b) The total number of pounds of explosives purchased during the period required
27 to be covered by the report. For persons who purchase explosives for use in multiple
28 states, the report need only state the total number of pounds which were delivered for use
29 in Missouri. Persons required to annually report shall maintain records sufficient to prove
30 the accuracy of the information reported.

31 (4) The person shall submit with the annual report a fee per ton, as established
32 under this section, based on the amount of explosives reported. If the report of total
33 pounds purchased results in a portion of a ton, the cumulative total of the fee shall be
34 rounded to the nearest ton. The minimum total fee submitted by any person required to
35 annually report shall be five hundred dollars. In addition to the minimum fee, any person
36 using explosives during any year shall pay a fee of one dollar and fifteen cents on each ton
37 of explosives used. The fee authorized under this subdivision may be adjusted by rule
38 provided the fee shall not exceed one dollar and fifty cents per ton. The state blasting
39 safety board shall review the fee schedule on a biennial basis and make recommendations
40 for adjustments.

41 5. (1) The state fire marshal may audit the records of any person required to
42 annually report under subsection 4 of this section to determine the accuracy of the number
43 of pounds of explosives reported. In connection with such audit, the state fire marshal may
44 also require any distributor of explosives to provide a statement of sales during the year

45 to persons required to report under subsection 4 of this section.

46 (2) It shall be a violation of sections 319.300 to 319.339 to fail to register as required
47 by subsection 3 of this section or knowingly report false information in the reports
48 required under subsections 3 and 4 of this section. The state fire marshal may issue a
49 notice of violation for reporting false information. The notice of violation shall be subject
50 to the same procedures and rights of appeal as established in sections 319.324, 319.327, and
51 319.333. Upon conviction for knowingly filing a false report, the person shall be subject
52 to a penalty as a class B misdemeanor. Conviction upon a second or subsequent offense
53 shall be subject to penalty as a class A misdemeanor.

54 6. It shall also be a violation of sections 319.300 to 319.339 for any person using
55 explosives to:

56 (1) Engage in blasting other than by a licensed blaster or an individual working
57 under the direct supervision of a licensed blaster;

58 (2) Fail to calculate the scaled distance, conduct monitoring of vibration and noise
59 levels, and conduct record keeping as required by sections 319.300 to 319.339;

60 (3) Fail to carry a minimum of one million dollars in commercial general liability
61 insurance.

62 7. Upon a conviction or guilty plea to violation of subsection 6 of this section, the
63 person shall be subject to a penalty as a class B misdemeanor upon the first offense, and
64 upon a second or subsequent offense, the person shall be subject to a penalty as a class A
65 misdemeanor as provided in subsection 1 of section 560.021, RSMo.

319.321. Sections 319.309, 319.312, 319.315, and 319.318 shall not apply to:

2 (1) Universities, colleges, or trade schools when confined to the purpose of
3 instruction or research;

4 (2) The use of explosive materials in the forms prescribed by the official U.S.
5 Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

6 (3) The training or emergency operations of any federal, state, or local government
7 including all departments, agencies, and divisions thereof, provided they are acting in their
8 official capacity and in the proper performance of their duties or functions;

9 (4) The use of explosives by the military or any agency of the United States;

10 (5) The use of pyrotechnics, commonly known as fireworks, including signaling
11 devices such as flares, fuses, and torpedoes;

12 (6) The use of small arms ammunition and components thereof which are subject
13 to the Gun Control Act of 1968, Title 18, Chapter 44, U.S.C., and regulations promulgated
14 thereunder. Any small arms ammunition and components thereof exempted by the Gun
15 Control Act of 1968 and regulations promulgated thereunder are also exempted from the

16 provisions of sections 319.300 to 319.339;

17 (7) Any person performing duties in underground mines regulated by 30 CFR Part
18 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR
19 Part 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using
20 explosives within an industrial furnace;

21 (8) The use of agricultural fertilizers when used for agricultural or horticultural
22 purposes;

23 (9) The use of explosives for demolition of structures;

24 (10) The use of explosives by employees, agents, or contractors of rural electric
25 cooperatives organized or operating under chapter 394, RSMo, and;

26 (11) Individuals discharging historic firearms and cannon or reproductions of
27 historic firearms and cannon.

319.324. 1. A state blasting safety board is hereby created and assigned to the
2 division of fire safety under the state fire marshal. There shall be seven members of this
3 board, as appointed by the governor, with the advice and consent of the senate, to be
4 comprised of:

5 (1) One representative of a municipality who serves in the capacity of director of
6 public works or a similar position;

7 (2) One representative of a person using explosives that is engaged in surface
8 mining that is subject to the requirements of section 319.300 to 319.339;

9 (3) One representative of a person using explosives that is engaged in construction;

10 (4) One representative of a person that is in the business of providing contract blast
11 monitoring services;

12 (5) Two representatives of persons that manufacture or distribute explosives; and

13 (6) The state fire marshal or his or her designee.

14 2. Each board member shall serve for a term of six years, except for the members
15 initially appointed one term shall be for one year, one term shall be for two years, one term
16 shall be for three years, one term shall be for four years, one term shall be for five years,
17 and one term shall be for six years. Members appointed and serving shall serve until their
18 successor is named and shall be eligible for reappointment. The state fire marshal or his
19 or her designee shall be a standing member of the board and shall have the power to vote.

20 3. Members of the board shall serve without compensation but may be reimbursed
21 by the division of fire safety for reasonable and necessary expenses. Meetings of the board
22 shall be held in facilities arranged by the division of fire safety. Hearings of the board may
23 be held at a location in Missouri agreed upon by the state fire marshal and the chairman
24 of the board. Upon agreement by the licensee, the state fire marshal, and the chairman of

25 the state blasting safety board, hearings may be conducted by conference call.

26 4. The board shall annually by January thirty-first elect a chairman from one of
27 the members other than the state fire marshal or his or her designee. The chairman shall
28 be elected by majority vote of the board and shall preside over all meetings and hearings
29 and perform any specific duties set out in sections 319.300 to 319.339.

30 5. The state fire marshal or his or her designee shall perform the duties of secretary
31 of the board.

32 6. The board shall meet as needed at the call of the chairman or upon written notice
33 by the state fire marshal. The board shall meet at least once each calendar year.

34 7. It shall be the duty of the board to:

35 (1) Advise the state fire marshal in the development of application and registration
36 forms, training and examinations, and setting fees for the filing of required applications,
37 registrations, and reports;

38 (2) Approve or disapprove any examination for licensing of blasters;

39 (3) Hold hearings and make decisions by majority vote upon appeals under section
40 319.306 and upon notices of violation under section 319.333;

41 (4) Approve or disapprove any rule proposed by the division of fire safety for the
42 administration of sections 319.300 to 319.339;

43 (5) Advise or assist the division of fire safety in any other matter regarding
44 administration or enforcement, within the scope and requirements of sections 319.300 to
45 319.339.

46 8. For any matter upon which a hearing is held under subdivision (3) of subsection
47 7 of this section, any referral of a notice of violation or request for criminal or civil
48 enforcement action or injunctive relief shall be made by the state fire marshal to the
49 attorney general or a prosecuting attorney, only upon a positive majority vote by the
50 board.

319.327. It shall be the duty of the division of fire safety to:

2 (1) Develop and distribute all forms, certificates, and printed material necessary
3 for carrying out duties relating to applications, registrations, training, testing, and
4 licensing required by sections 319.300 to 319.339.

5 (2) Publish, distribute, and administer an examination that tests the knowledge of
6 applicants for a blaster's license in the safe and proper use of explosives. The examination
7 may be given to applicants by representatives of the division of fire safety, by persons
8 approved by division of fire safety to provide training under section 319.306, or by other
9 persons designated by the division of fire safety.

10 (3) Upon approval by majority vote of the state blasting safety board, promulgate

11 any rule necessary for carrying out the purposes of sections 319.300 to 319.339. No rule
12 promulgated by the state fire marshal shall duplicate, amend, supersede, or conflict with
13 the provisions of any statute, regulation, or policy established by:

14 (a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
15 Explosives;

16 (b) 18 U.S.C., Chapter 40, Importation, Manufacturing, Distribution and Storage
17 of Explosive Materials;

18 (c) The U.S. Department of Transportation;

19 (d) The federal Mine Safety and Health Administration;

20 (e) The federal Occupational Safety and Health Administration;

21 (4) Investigate possible violations of sections 319.300 to 319.339 upon the complaint
22 of any citizen that believes explosives are being used in such a way to endanger the public's
23 safety or property, or upon any cause for the state fire marshal to believe that a violation
24 is occurring. To conduct such investigations, the state fire marshal shall assign adequately
25 trained personnel within the division of fire safety to inspect blasting sites, examine records
26 and seismograph recordings, inspect blaster's licenses, inspect registration and reporting
27 records required by section 319.315, or determine if any other provision of sections 319.300
28 to 319.339 has been violated. Such inspectors shall be employees of the division of fire
29 safety and may act on a full-time or part-time basis. Any such inspector shall meet the
30 requirements of section 319.306 for being licensed as a blaster in the state of Missouri.

31 (5) The division of fire safety may enforce any provision of sections 319.300 to
32 319.339 by referral of violations to the attorney general or a prosecuting attorney and may
33 seek criminal penalties and may seek injunctive relief. For any matter upon which a
34 hearing is held under subdivision (3) of subsection 7 of this section, any referral of a notice
35 of violation or request for criminal or civil enforcement action or injunctive relief shall be
36 made by the state fire marshal to the attorney general or a prosecuting attorney, only upon
37 a positive majority vote by the board.

38 (6) Receive and provide information and assistance, in cooperation with local
39 governments, federal agencies, and agencies of other states, in administration and
40 enforcement of sections 319.300 to 319.339 and similar laws, regulations, and requirements
41 in other jurisdictions.

2 319.330. There is hereby created in the state treasury the "Missouri Explosives
3 Safety Act Administration Fund", which shall consist of all fees collected under sections
4 319.300 to 319.339, appropriations of the general assembly, federal grants, and private
5 donations. The state treasurer shall be custodian of the fund. In accordance with sections
30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon

6 appropriation, money in the fund shall be used solely for the administration of sections
7 319.300 to 319.339. Notwithstanding the provisions of section 33.080, RSMo, to the
8 contrary, any moneys remaining in the fund at the end of the biennium shall not revert to
9 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund
10 in the same manner as other funds are invested. Any interest and moneys earned on such
11 investments shall be credited to the fund. The state fire marshal shall submit a report to
12 the state blasting safety board and the public each year that describes the revenue created
13 by fees established under the provisions of sections 319.300 to 319.339 and how the revenue
14 was expended to enforce the provisions of sections 319.300 to 319.339, including the
15 number of employees used and activities performed.

319.333. Any person the state fire marshal or his or her representative determines,
2 upon substantial evidence, to be in violation of sections 319.300 to 319.339 may be issued
3 a notice of violation by the division of fire safety. Any hearings regarding suspension or
4 revocation of a blaster's license shall be conducted under the provisions of subsection 10
5 of section 319.306, rather than the provisions of this section. The notice of violation shall
6 be in writing and shall state the section or sections violated and the circumstance of the
7 violation, including date, place, person involved, and the act or omission constituting the
8 violation. The notice shall also inform the person receiving the notice of the right to
9 request a hearing before the state blasting safety board. The recipient may request a
10 hearing within forty-five days of the date the notice was received. If a hearing is requested,
11 the state fire marshal shall immediately inform the chairman of the board. The person
12 receiving the notice, the state fire marshal, and the chairman of the board shall establish
13 a mutually acceptable date and place for the hearing, which in no case shall be more than
14 thirty days after the hearing was requested. The hearing shall be conducted as an
15 uncontested case, although the person or the state fire marshal may be represented by an
16 attorney. Within fifteen days of such hearing, the board shall notify the person of its
17 decision on the appeal, which may include upholding, modifying, or disapproving the
18 notice of violation. The board's action upon the appeal shall be decided by majority vote.
19 If the notice of violation is upheld by the board, in whole or part, upon a separate majority
20 vote of the board, the person may be referred for enforcement action as provided in section
21 319.327.

319.336. Any person aggrieved by any official action of the state blasting safety
2 board or the division of fire safety affecting their licensed status, including revocation,
3 suspension, failure to renew, or refusal to grant a license may seek a determination thereon
4 by the administrative hearing commission under the provisions of section 621.045, RSMo.

319.338. 1. Any person using explosives within Missouri shall notify the division

2 of fire safety in writing or by telephone at least two business days in advance of first using
3 explosives at a site where blasting has not previously been conducted at that location. If
4 blasting will be conducted at an ongoing project, such as a long term construction project,
5 or at a permanent site, such as a surface mine, the person shall only be required to make
6 one notice to the division of fire safety in advance of the first use of explosives.

7 2. The notice required by this section shall state the name, address, and telephone
8 number of the person using explosives, the name of the individual responsible for
9 supervision of blasting, the date or approximate period over which blasting will be
10 conducted, the location of blasting by street address, route, or other description, and the
11 nature of the project or reason for blasting.

12 3. This section shall not apply to any blasting required by a contract with any
13 agency of the state of Missouri, any federal agency, or any political subdivision.

319.339. 1. Any person using explosives which will conduct blasting within the
2 jurisdiction of a municipality shall notify the appropriate representative of the
3 municipality in writing or by telephone at least two business days in advance of blasting
4 at that location. An appropriate representative shall be deemed to be the city's public
5 works department, code enforcement official, or an official at the main office maintained
6 by the municipality. In any area where blasting will be conducted, whether in a
7 municipality or in an unincorporated area, the person using explosives also shall notify the
8 appropriate fire protection official for the jurisdiction where blasting will occur, which
9 may be a city fire department, fire protection district, or volunteer fire protection
10 association. The notice required by this section shall state the name, address, and
11 telephone number of the person using explosives, the name of the individual responsible
12 for supervision of blasting, the date or approximate period over which blasting will be
13 conducted, the location of blasting by street address, route, or other description, and the
14 nature of the project or reason for blasting. If blasting will be conducted at an ongoing
15 project, such as a long term construction project, or at a permanent site, such as a surface
16 mine, the person shall only be required to make one notice to the municipality or
17 appropriate fire protection official in advance of the first use of explosives. Any such
18 ongoing projects or permanent sites in existence at the time of the effective date of sections
19 319.300 to 319.339 shall not be required to provide notice as described in this subsection.

20 2. Any person using explosives which will conduct blasting within the jurisdiction
21 of a municipality shall notify the owner or occupant of any residence or business located
22 within a scaled distance of fifty-five from the site of blasting prior to the start of blasting
23 at any new location. One notification by mail, telephone, printed notification posted
24 prominently on the premises or the property, or delivered in person to any such owner or

25 occupant meets the requirements of this subsection. A municipality may provide the name,
26 last known address, and telephone number of the owners or occupants of any residence or
27 business that may be located within the scaled distance of fifty-five from the site of blasting
28 to the person using explosives upon request.

29 3. Any municipality or county may by ordinance:

30 (1) Require that a permit be obtained in addition to the notice required by
31 subsection 1 of this section, with such application for permit being due no more than ten
32 days prior to the first use of explosives;

33 (2) Require that the application for the permit contain specific information about
34 the type of explosives to be used and their storage location at the site where used;

35 (3) Require the applicant to demonstrate an acceptable plan for signage or other
36 means of informing the public of blasting in proximity to public streets or highways and
37 any request for temporary closing of streets or routing of traffic;

38 (4) Specify the times of days blasting may be conducted, which shall not be less than
39 eight consecutive hours, and provide that blasting may not be conducted on Sunday except
40 upon application of the person using explosives and approval by the municipality;

41 (5) Require that the applicant submit proof that the person using explosives is
42 registered with the division of fire safety and that blasting will be conducted by blasters
43 licensed by the state of Missouri, division of fire safety;

44 (6) Require that the applicant submit proof of commercial general liability
45 insurance in an acceptable amount, which shall be no less than one million dollars and no
46 more than five million dollars;

47 (7) Require that the applicant conduct a pre-blast survey of any uncontrolled
48 structures within a scaled distance of fifty-five from the blast site.

49 4. A permit for blasting under a municipal ordinance authorized by subsection 3
50 of this section shall be granted by the municipality upon satisfying the requirements of the
51 ordinance and upon the applicant's payment of a reasonable fee to cover the
52 administration of the permit system.

53 5. Any authorized representative of a municipality, county or an appropriate fire
54 protection official may:

55 (1) Require any person using explosives to show proof that he or she is registered
56 with the division of fire safety and blasting is being conducted by an individual that is
57 licensed under the provisions of section 319.306;

58 (2) Request and be allowed access to the site of blasting by the person using
59 explosives and shall be allowed to observe blasting from a safe location as designated by
60 the blaster;

61 **(3) Examine records of blasting required to be maintained by sections 319.309 and**
62 **319.315. However, no municipality or fire protection official shall require a person using**
63 **explosives or a blaster to surrender such records or a copy of such records to the**
64 **municipality or fire protection official;**

65 **(4) Report suspected violations of section 319.300 to 319.339 to the division of fire**
66 **safety.**

67 **6. Subsections 1, 2, 3, and 4 of this section shall not apply to any blasting required**
68 **by a construction contract with any agency of the state of Missouri, any federal agency, or**
69 **any political subdivision.**

70 **7. The state of Missouri hereby preempts existing regulation, licensing, and**
71 **inspection of persons using explosives, blasters, and blasting by local governments, except**
72 **as authorized in this section. It shall be unlawful for any local government to impose any**
73 **future ordinance, order, permit or regulation upon persons using explosives or blasters**
74 **which duplicates, exceeds or conflicts with the requirements of sections 319.300 to 319.339,**
75 **unless such ordinance, order, permit, or regulation, in effect as of April 5, 2006, shall**
76 **exclusively regulate the use of explosives at the site of a quarry in any county with a**
77 **charter form of government and with more than two hundred fifty thousand but fewer**
78 **than three hundred fifty thousand inhabitants. For purposes of this section, quarry shall**
79 **include any place where rock, ore, stone, or similar materials are excavated for sale or off-**
80 **premise use. A quarry shall not include the removal or relocation of rock, stone, or earth**
81 **incidental to the construction of residential, commercial, or industrial buildings. Nothing**
82 **in this section shall preempt the rights and remedies afforded by the general assembly or**
83 **common law to persons damaged by blasting.**

Section 1. Any rule or portion of a rule, as that term is defined in section 536.010,
2 **RSMo, that is created under the authority delegated in sections 319.300 to 319.339, RSMo,**
3 **shall become effective only if it complies with and is subject to all of the provisions of**
4 **chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
5 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
6 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove or**
7 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
8 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**
9 **void.**

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